1952. **File No.** O. Presy. Small Causes Courts 152

Legal Deptt.

A BRANCH

Subject:— Opinions under the Presidency Small Causes Courts Act 1882

File No. O. Presy. Small Causes Courts 152

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CONTENTS.

Legal Department File No. C.Prsy . mall Ca ses Courts /52

Sr.No.	M.I./C.No.	Subject	Pages
		Opinions under the Presidency Small Causes Courts Act. 1882.	
1.	C.No. 153/11-9-52	Sec. 9 and Rules thereunder . Whether the court is competent to decree interest @ from the date of suit till the date of realisation of the decretal amount.	1-4
2.	C.No. 160/16-9-5	Ref----------do----------	5-6

S.A.R.
18-6
' copies

17K/1916

OFFICE OF THE R.L.A.

Claim for interest on decree Presidency Small Cause Courts Act. 1882. Section 9 and Rules thereunder.

One Marandai has complained to Government that the Small Cause Court, while decreeing a suit in favour of money-lenders, decrees interest on the principal up to the date of filing the plaint only and no future interest is being decreed. The question raised for the R.L.A.'s consideration is whether the Court is competent to decree interest from the date of suit till the date of realisation of the decretal amount.

By rules framed by the High Court under section 9 of the Presidency Small Cause Courts Act, 1882, the provisions of section 34 of the Civil Procedure Code have been made applicable to suits for sums exceeding Rs. 1,000/- only and these provisions are not applicable to suits below that amount. Section 34(1) of the Civil Procedure Code, 1908, enacts:

> "Where and in so far as a decree is for the payment of money, the Court may in the decree, order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged, from the date of the suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit, with further interest at such rate as the Court deems reasonable on the aggregate sum so the date of payment or to such earlier date as the Court thinks fit."

sub-section(2) provides:

> "Where such a decree is silent with respect to the payment of further interest on such aggregate sum as aforesaid from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefor shall not lie."

This provision clearly lays down that it is entirely within the discretion of the Court to allow or to disallow future interest from the date of suit till

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16-6
4 copies

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the date of realisation, and by applying that provision to claims exceeding Rs. 1,000/- only in the Presidency Small Cause Court, it is implied that no such future interest on claims less than Rs. 1,000/- can be granted by the Presidency Small Cause Court. Consequently, it would not be competent for the Presidency Small Cause Court to award any future interest in respect of suits below Rs. 1,000/- and it would be within the discretion of the Court of suits over Rs. 1,000/-.

Sd/- F.K.Lad

9-9

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S.A.K.
16-6
4 copies

-X- 153-A dt. 11-9-52

OFFICE OF THE R.L.A.

Claim for interest on decree Presidency Small Cause Courts Act. 1882. Section 9 and Rules thereunder.

One Narendra has complained to Government that the Small Cause Court, while decreeing a suit in favour of money-lenders, decrees interest on the principal up to the date of filing the plaint only and no future interest is being decreed. The question raised for the R.L.A.'s consideration is whether the Court is competent to decree interest from the date of suit till the date of realisation of the decretal amount.

Rules framed by the High Court under section 9 of the Presidency Small Courts Act, 1882, the provisions of section 34 of the Civil Procedure Code have been made applicable to suits for sums exceeding Rs. 1000/- only and these provisions are not applicable to suits below that amount. Section 34 (1) of the Civil Procedure Code, 1908, enacts:

> "Where and in so far as a decree is for the payment of money, the Court may in the decree, order interest at such rate as the Court deems reasonable to be paid on the principal sum for any period prior to the institution of the suit, with further reasonable on the aggregate sum so adjudged from the date of the decree to the date of payment, or to such earlier date as the Court thinks fit."

Sub-section (2) provides:

> "Where such a decree is silent with respect to the payment of further interest on such aggregate sum as aforesaid from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefor shall not lie."

This provision clearly lays down that it is entirely within the discretion of the Court to allow or to disallow future interest from the date of suit till

the date.....

the date of realisation, and by applying that provision to claims exceeding Rs. 1,000/- only the Presidency Small Cause Court, it is implied that no future interest on claims less than Rs. 1,000/- can be granted by the Presidency Small Cause Court. Consequently, it would not be competent for the Presidency Small Cause Court to award any future interest in respect of suits below Rs. 1,000/- and it would be within the discretion of the Court to allow or disallow future interest in respect of suits over Rs. 1,000/-

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S.A.K.
16-6
4 copies